



ATTORNEY DOCKET NO. 43889-929
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Toyokazu FUJII et al.

Serial No.: 09/536,618
(DIV of SN: 09/018,181)

Filed: March 26, 2000

For: SEMICONDUCTOR DEVICE AND PROCESS)
FOR FABRICATION OF THE SAME)

) Group Art Unit: 2814

) Examiner: H. PHAM

#6
7-25-01
T. Flowers

TECHNOLOGY CENTER 2800

RECEIVED
JUL 24 2001

ELECTION UNDER 35 U.S.C. § 121

Hon. Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the restriction requirement set forth in the Office Action mailed June 20, 2001, having a shortened statutory period for response set to expire July 20, 2001, wherein the Examiner restricted the application between the following species:

Embodiment 1 - shown in figures 1, 2A-2D and described on pp.28-35;
Embodiment 2 - shown in figures 3, 4A-4B and described on pp. 35-39;
Embodiment 3 - shown in figures 5, 6A-6D and described on pp. 40-45;
Embodiment 4 - shown in figures 9, 10A-10B and described on pp. 47-53;
Embodiment 5 - shown in figures 12, 13A-13D and described on pp. 53-61; &
Embodiment 6 - shown in figures 15A-15B and described on pp. 62-64.

Applicants provisionally elect, with traverse, Embodiment 3 set forth above, and identify claims 1, 4, 6, 7, 10, 12 and 13 as reading on the elected embodiment.

However, as stated, Applicants respectfully traverse the foregoing restriction requirement for the following reasons. First, contrary to the assertion set forth in the pending rejection, claim 1 as originally filed is generic. As recited by claim 1, the semiconductor device comprises: (1) a substrate . . . , (2) a first insulating film, (3) a second insulating film . . . containing at least silicon nitride, and (4) a support film A review of the cited portions of the specification makes clear that each of embodiments 1-5 read on claim 1. Moreover, as claim 1 is the only independent claim, claim 1 is inherently generic to the remaining claims. Indeed, if the invention claim 1 is allowable, all pending claims must be deemed allowable.

Accordingly, as claim 1 is generic to the embodiments 1-5 set forth above, and all of the pending claims read on one of the embodiments 1-5, it is respectfully submitted that the current restriction requirement be withdrawn and that all be examined in the current application.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this

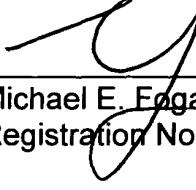
communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT, WILL & EMERY

Date: 7/2/01

By:


Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W. , Suite 1200
Washington, D.C. 20005-3096
Telephone: 202-756-8000
Facsimile: 202-756-8087

WDC99 464906-1.043889.0929